

FILED

2013 OCT 17 PM 3:00

CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
SANTA ANA

BY _____

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Attorneys for Plaintiffs AG NET LEASE
ACQUISITION CORPORATION and AGNL
ANTENNA, L.P.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

AG NET LEASE ACQUISITION
CORPORATION; and AGNL
ANTENNA, L.P.,

Plaintiffs,

vs.

RONALD J. BUSCHUR; and KEVIN
MICHAELS,

Defendants.

Case No.

COMPLAINT

JURY TRIAL DEMANDED

SACV13-01631 JVS(RNBx)

COMES NOW the Plaintiffs, and state their Complaint against the above-named Defendants, as follows:

I. INTRODUCTION

1. This case involves false statements made by officers of Powerwave Technologies, Inc. ("Powerwave" or the "Company") to induce Plaintiffs to enter into a real estate transaction. For several quarters in 2010 and 2011, Powerwave inflated its financial results by sending sham bulk orders to one of its main customers resulting in the improper recognition of revenue. Plaintiffs relied on the falsely enhanced financial statements in deciding to purchase from, and then lease back to Powerwave its commercial headquarters in Santa Ana, California in a sale-

1 leaseback transaction totaling approximately \$50 million (the "Transaction"). Once
2 Powerwave's true financial condition came to light, its business failed and it ceased
3 making lease payments to Plaintiffs. The misconduct of Powerwave's officers has
4 caused Plaintiffs to incur several millions of dollars in damages.

5 **II. PARTIES, JURISDICTION AND VENUE**

6 2. Plaintiff AG Net Lease Acquisition Corporation ("Acquisition") is a
7 Delaware corporation with its principal place of business in New York.

8 3. Plaintiff AGNL Antenna, L.P. ("Antenna") is a Delaware limited
9 partnership whose partners are residents of Delaware. Acquisition and Antenna are
10 collectively referred to herein as "AGNL."

11 4. Defendant Ronald J. Buschur ("Buschur") is, on information and belief,
12 a resident of California. Buschur served as the Company's President and Chief
13 Executive Officer ("CEO") at the time of the Transaction.

14 5. Defendant Kevin Michaels ("Michaels") is, on information and belief, a
15 resident of California. Michaels served as the Company's Chief Financial Officer
16 ("CFO") at the time of the Transaction.

17 6. Prior to the Transaction, Buschur and Michaels participated in the
18 issuance of false and misleading statements and failed to disclose the true facts
19 about Powerwave's business. In addition, Buschur and Michaels repeatedly had the
20 opportunity to correct the misstatements and omissions by and on behalf of
21 Powerwave prior to the Transaction, and failed to do so.

22 7. This court has subject matter jurisdiction pursuant to 28 U.S.C. §
23 1332(a) because this action is between citizens of different states and of foreign
24 states and the amount in controversy exceeds \$75,000.

25 8. This court has personal jurisdiction over Defendants because
26 Defendants, on information and belief, reside in California. Furthermore, with
27 respect to the Transaction that underlies this suit, Defendants directed their activities
28 towards California.

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9. Venue is appropriate in this district pursuant to 28 U.S.C. § 1391(a) because a substantial part of the events giving rise to the claim occurred in this district and this action arises from a transaction concerning a piece of real estate in this district.

III. POWERWAVE AND DEFENDANTS USE FALSE FINANCIAL STATEMENTS TO INDUCE PLAINTIFFS TO ENTER INTO THE TRANSACTION

10. In 2011, Powerwave was seeking to raise capital. To that end, Powerwave announced on July 20, 2011 that it was issuing \$100 million in Convertible Senior Subordinated Notes due 2041. In addition, Powerwave sought to raise capital by selling its headquarters to an investor and lease it back.

11. In order for AGNL to be willing to enter into the Transaction, Powerwave needed to convince AGNL that it was financially sound, and would therefore be able to make the necessary lease payments. As a result, Powerwave provided its public financial statements, signed by Defendants, to AGNL, including the Form 10-K for the year 2010 (the "2010 10-K"), and the Form 10-Q filings for the first two quarters of 2011 (the "1Q11 10-Q" and the "2Q11 10-Q").

12. In the 2010 10-K, the 1Q11 10-Q, and the 2Q11 10-Q, defendants made false and misleading statements about the Company's performance in the third quarter of 2010 ("3Q10"), the fourth quarter of 2010 ("4Q10"), the first quarter of 2011 ("1Q11") and the second quarter of 2011 ("2Q11"). In particular:

a. Defendants concealed the extent to which the Company's revenues had been achieved through improper and unsustainable sales practices, including last-minute 3Q10 and 4Q10 \$15 million bulk orders to Team Alliance that included a right of return if Team Alliance could not re-sell the product, the last minute 1Q11 \$15 million bulk order to Team Alliance of defective product that would be replaced in a later quarter, and the last-minute 2Q11 \$25 million bulk order that explicitly waived payment, all of which bulk orders were unconnected to

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1 actual demand.

2 b. Defendants omitted disclosure of the true nature and substance of
3 the 3Q10, 4Q10, 1Q11, and 2Q11 end-of-quarter bulk orders with Team Alliance in
4 the February 17, 2011 Report on Form 10-K and statements detailed above, or the
5 material risks those practices posed to Powerwave's future financial results.

6 c. Powerwave's reported financial results were the result of an
7 accounting scheme employing improper accounting practices in violation of GAAP
8 and SEC revenue recognition requirements.

9 d. Powerwave's purported demand was a result of unsustainable
10 business practices of forcing more products through its sales channels with the end-
11 of-quarter bulk orders to Team Alliance than Powerwave's customers could
12 reasonably expect to absorb, thereby cannibalizing sales from future periods.

13 13. AGNL relied on the financial information contained in Powerwave's
14 financial statements, and accordingly agreed to enter into the Transaction.

15 14. On October 18, 2011, Powerwave filed a Form 8-K filing with the
16 SEC, announcing the Transaction:

17 On October 17, 2011, Powerwave Technologies, Inc. (the
18 "Company") entered into an Agreement of Purchase and
19 Sale (the "Agreement") with AG Net Lease Acquisition
20 Corp. (the "Purchaser") pursuant to which the Company
21 will sell to the Purchaser all of its interest in its current
22 corporate headquarters facility located at 1761-1801 E. St.
23 Andrew Place, Santa Ana, California, which is comprised
24 of a building containing approximately 367,045 square
25 feet and the underlying land, and an adjacent vacant 2.87
26 acre parcel of land (collectively, the "Real Estate"). The
27 aggregate consideration to be paid by the Purchaser to the
28 Company pursuant to the Agreement is \$49,550,000 in
cash. The closing of the sale is expected to take place
prior to October 31, 2011, subject to the satisfaction or
written waiver of certain closing conditions and deliveries.
The foregoing description of the Agreement does not
purport to be complete and is qualified in its entirety by
reference to the Agreement, a copy of which will be filed
with the Company's Annual Report on Form 10-K for the
Company's fiscal year 2011.

Pursuant to and upon closing of the Agreement, the
Company expects to enter into a 15-year lease with two

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1 ten-year extension options with the Purchaser for the Real
2 Estate (the "Lease"), which Lease would be effective as of
3 the date of closing of the Agreement. The Company
4 expects the initial base rent to be approximately
5 \$3,964,000 per annum, payable in quarterly installments
6 of \$991,000, escalating 2% per year commencing on the
7 first anniversary of the effective date of the Lease and
8 further expects the Lease to be a triple net lease under
9 which the Company will pay insurance, real estate taxes,
10 maintenance and repair expenses. The material terms of
11 the Lease will be disclosed upon the execution of the
12 Lease.

13 **IV. POWERWAVE'S REVENUE INFLATION SCHEME**

14 15. Beginning at least in the third quarter of 2010 and continuing through
15 the second quarter of 2011, Powerwave was able to convince its largest customer
16 (Team Alliance) to purportedly purchase products that it did not actually need in
17 "bulk orders" at the end of each quarter. Powerwave used these purported bulk
18 orders to improperly and materially inflate its reported revenue, in violation of
19 Generally Accepted Accounting Principles ("GAAP").

20 16. The bulk orders were material to Powerwave's business. On
21 information and belief, the last-minute bulk orders were at least \$15 million in
22 3Q10, 4Q10, and 1Q11 and at least \$25 million in 2Q11. On information and belief,
23 the 3Q10 and 4Q10 bulk orders granted the customer a right of return if the product
24 could not be resold, the 1Q11 bulk order was made up of defective product that
25 would be replaced in a later quarter, and in 2Q11, Powerwave explicitly waived
26 payment.

27 17. On information and belief, these last-minute bulk orders were created
28 in order to make it falsely appear that Powerwave was performing better relative to
its quarterly and year-end forecasts. In reality, the actual market demand for
Powerwave's products was not sufficient to meet these forecasts, so Powerwave was
contriving to create false demand through these last-minute bulk orders.

18 18. As a quarter drew to an end, on information and belief, Powerwave
19 personnel would look around at whatever inventory was unsold and would then

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1 obtain a purported bulk order from Team Alliance that permitted Powerwave to ship
2 these items prior to the end of the quarter. The existence of these bulk orders was
3 corroborated by former Powerwave employees who stated that such inventory had
4 been shipped to an empty warehouse.

5 19. Powerwave granted Team Alliance special extended payment terms
6 and rights of return in order to get Team Alliance to accept delivery of the last-
7 minute quarter-end bulk orders without having to assume the full responsibility of
8 paying for the products. Specifically, to encourage Team Alliance to place these
9 large bulk orders, if the products could not be re-sold, Powerwave would take them
10 back and Team Alliance would not have to pay.

11 20. By recognizing revenue from these bulk orders, Powerwave's financial
12 statements violated GAAP, as reflected by the Financial Accounting Standards
13 Board's Accounting Standards Codification ("ASC").

14 21. ASC 605-10-25-1 provides that revenue cannot be recognized until it is
15 both realized (or realizable) and earned. It states:

16 If an entity sells its product but gives the buyer the right to
17 return the product, revenue from the sales transaction shall
18 be recognized at time of sale only if all of the following
19 conditions are met:

20 a. The seller's price to the buyer is substantially fixed or
21 determinable at the date of sale. . .

22 b. The buyer has paid the seller, or the buyer is obligated
23 to pay the seller and the obligation is not contingent on
24 resale of the product...

25 c. The buyer's obligation to the seller would not be
26 changed in the event of theft or physical destruction or
27 damage of the product.

28 d. The buyer acquiring the product for resale has
economic substance apart from that provided by the
seller....

e. The seller does not have significant obligations for
future performance to directly bring about resale of the
product by the buyer.

f. The amount of future returns can be reasonably

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1 estimated.

2 22. ASC 605-10-S25 and ASC 605-10-S99 provide that revenue can be
3 recognized only when all of the following criteria are met: (a) persuasive evidence
4 of an arrangement exists; (b) delivery has occurred or services have been rendered;
5 (c) the seller's price to the buyer is fixed or determinable; and (d) collectibility is
6 reasonably assured.

7 23. According to ASC 605-10-S99-1, if a sales transaction fails to meet all
8 of the conditions of ASC 605-15-25-1, "no revenue may be recognized until those
9 conditions are subsequently met or the return privilege has substantially expired."
10 ASC 605-10-S99-1 precludes revenue recognition when "the seller retains the risks
11 and rewards of ownership of the product."

12 24. Because Team Alliance did not accept full responsibility for the
13 products, it did not assume the risks and rewards of ownership of the product.
14 Therefore, the requirement that "the seller retains the risks and rewards of
15 ownership of the product" before revenue can be recognized was violated.

16 25. As a result of the improper recognition of the revenue from these bulk
17 orders, Powerwave's financial statements were materially misstated, and the failure
18 to disclose this revenue recognition scheme was a material omission.

19 **V. DEFENDANTS' ROLE IN POWERWAVE'S FINANCIAL**
20 **MISSTATEMENTS**

21 26. The approval for the large end-of-quarter deals came from defendants
22 Buschur and Michaels. Buschur and Michaels must have been directly involved in
23 approving the end-of-quarter deals and terms because the internal controls at
24 Powerwave required that significant deals and deals involving discounts and other
25 concessions had to be approved by Buschur and Michaels. As the bulk orders were
26 each between \$15 and \$25 million, and contained rights of return and extended
27 payment terms, they each would have required approval by Buschur and Michaels.
28

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27. In addition, by virtue of their positions in Powerwave, Buscher and Michaels possessed the power and authority to control the contents of its public financial statements. Buscher and Michaels directly participated in the management of the Company, they were directly involved in the day-to-day operations of the Company, they participated in drafting, producing, reviewing and/or disseminating Powerwave's false and misleading financial statements, and they were aware, or recklessly disregarded, that false and misleading statements regarding Powerwave were being issued, and approved or ratified these statements.

28. Buscher also, according to the Company's SEC filings, was responsible for overseeing the Company's sales activities. Specifically, the Company announced on May 11, 2011 a Sales Incentive Program which compensated the Company's Vice President of Worldwide Sales based on whether the Company achieved sales quotas set by Buscher.

29. Both Buscher and Michaels signed Sarbanes-Oxley certifications attached to Powerwave's financial statements, attesting personally to the fairness and truthfulness of Powerwave's financial statements and to the strength of Powerwave's financial controls and internal controls.

30. Due to the material misstatements and omissions contained in Powerwave's financial statements, its business was significantly weaker than it had led AGNL to believe. Powerwave filed for bankruptcy on January 28, 2013, and has not made the payments to Antenna it is obligated to make. As a result, AGNL has suffered damages in an amount to be proven at trial.

COUNT I:

RECKLESS MISREPRESENTATION

31. Plaintiffs repeat and reallege each and every allegation set forth in the paragraphs above as if fully set forth herein.

32. Defendants made, or participated in the making, of false representations and omissions about Powerwave's financial state to Plaintiff. By virtue of their

1 position in Powerwave and their involvement in the creation of Powerwave's
2 financial statements, Defendants acted with recklessness as to the truth of those
3 statements.

4 33. Defendants intended AGNL to rely on Powerwave's financial
5 statements in order to induce AGNL to enter into the Transaction.

6 34. AGNL justifiably relied upon the information communicated by
7 Defendants, through reliance upon the information in a transaction that Defendants
8 intended the information to influence or knew that Powerwave so intended.

9 35. As a result of the reckless misrepresentations of Defendants, AGNL
10 suffered injury and pecuniary loss, thereby entitling it to an award of compensatory
11 and punitive damages, including all damages allowed under Cal. Civ. Code § 3343.

12 **COUNT II:**

13 **NEGLIGENT MISREPRESENTATION**

14 36. Plaintiffs repeat and reallege each and every allegation set forth in the
15 paragraphs above as if fully set forth herein.

16 37. Defendants, in the course of their business, profession or employment,
17 supplied false information for the guidance of others in their business transactions
18 and failed to exercise reasonable care and competence in obtaining and
19 communicating such information.

20 38. Plaintiffs were among the limited group of persons for whose benefit
21 and guidance Defendants supplied, or caused Powerwave to supply the information.

22 39. AGNL justifiably relied upon the information communicated by
23 Defendants, through reliance upon the information in a transaction that Defendants
24 intended the information to influence or knew that Powerwave so intended.

25 40. As a result of the negligent misrepresentations of Defendants, AGNL
26 suffered injury and pecuniary loss, thereby entitling it to an award of compensatory
27 damages.

28

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PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray that they be awarded judgment against Defendants, jointly and severally, as follows:

(a) that judgment be rendered for Plaintiffs and against Defendants for actual damages in such amounts as are shown at the time of trial or hearing of the case, but not less than \$75,000.

(b) that judgment be rendered for Plaintiffs and against Defendants for punitive damages in such amounts as are determined at trial or hearing of the case.

(c) that judgment be rendered for Plaintiffs and against Defendants for pre-judgment interest and post-judgment interest as allowed by law.

(d) that judgment be rendered for Plaintiffs and against Defendants for attorneys' fees and costs as allowed by law.

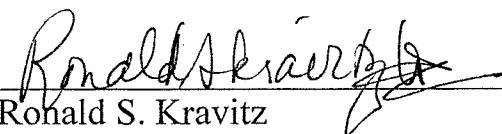
(e) that Plaintiffs have all other and further relief as the Court deems just and equitable.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury on all issues.

Dated: October 17, 2013

LINER GRODE STEIN YANKELEVITZ
SUNSHINE REGENSTREIF & TAYLOR LLP

By: 
Ronald S. Kravitz

Attorneys for Plaintiffs AG NET LEASE
ACQUISITION CORPORATION and
AGNL ANTENNA, L.P.

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

NOTICE OF ASSIGNMENT TO UNITED STATES JUDGES

This case has been assigned to District Judge James V. Selna and the assigned Magistrate Judge is Robert N. Block.

The case number on all documents filed with the Court should read as follows:

SACV13-01631 JVS (RNBx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge.

Clerk, U. S. District Court

October 17, 2013

Date

By Dwayne Roberts
Deputy Clerk

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

- | | | |
|---|---|---|
| <input type="checkbox"/> Western Division
312 N. Spring Street, G-8
Los Angeles, CA 90012 | <input checked="" type="checkbox"/> Southern Division
411 West Fourth St., Ste 1053
Santa Ana, CA 92701 | <input type="checkbox"/> Eastern Division
3470 Twelfth Street, Room 134
Riverside, CA 92501 |
|---|---|---|

Failure to file at the proper location will result in your documents being returned to you.

I. (a) PLAINTIFFS (Check box if you are representing yourself ☐)

AG NET LEASE ACQUISITION CORPORATION and AGNL ANTENNA, L.P.

DEFENDANTS (Check box if you are representing yourself ☐)

RONALD J. BUSCHUR and KEVIN MICHAELS

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same information.)

Ronald S. Kravitz (SBN 129704) (Telephone 415-489-7761)
LINER GRODE STEIN YANKELEVITZ SUNSHINE REGENSTREIF & TAYLOR LLP
One California Street, Suite 900
San Francisco, CA 94111

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same information.)

II. BASIS OF JURISDICTION (Place an X in one box only.)

- ☐ 1. U.S. Government Plaintiff
☐ 2. U.S. Government Defendant
☐ 3. Federal Question (U.S. Government Not a Party)
☒ 4. Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES-For Diversity Cases Only
(Place an X in one box for plaintiff and one for defendant)

- | | | | | | |
|---|--------------------------------|---|---|---------------------------------------|--------------------------------|
| Citizen of This State | PTF <input type="checkbox"/> 1 | DEF <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State | PTF <input type="checkbox"/> 4 | DEF <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input checked="" type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN (Place an X in one box only.)

- ☒ 1. Original Proceeding
☐ 2. Removed from State Court
☐ 3. Remanded from Appellate Court
☐ 4. Reinstated or Reopened
☐ 5. Transferred from Another District (Specify)
☐ 6. Multi-District Litigation

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check "Yes" only if demanded in complaint.)

CLASS ACTION under F.R.Cv.P. 23: ☐ Yes ☒ No **MONEY DEMANDED IN COMPLAINT:** \$ more than \$75,000

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
This is a diversity case under 28 U.S.C. § 1332(a). The plaintiffs were induced to enter into a real estate transaction based on false financial statements of a company, of which defendants were top executives.

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES	CONTRACT	REAL PROPERTY CONT.	IMMIGRATION	PRISONER PETITIONS	PROPERTY RIGHTS
<input type="checkbox"/> 375 False Claims Act	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 462 Naturalization Application	Habeas Corpus:	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 463 Alien Detainee 510 Motions to Vacate Sentence	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 290 All Other Real Property	TORTS	<input type="checkbox"/> 530 General	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 140 Negotiable Instrument	PERSONAL PROPERTY	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 535 Death Penalty	SOCIAL SECURITY
<input type="checkbox"/> 450 Commerce/ICC Rates/Etc.	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 371 Truth in Lending	Other:	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 315 Airplane Product Liability	<input checked="" type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 470 Racketeer Influenced & Corrupt Org.	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Vet.)	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 863 DIWC/DIWW (405 (g))
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 330 Fed. Employers' Liability	BANKRUPTCY	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 153 Recovery of Overpayment of Vet. Benefits	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 560 Civil Detainee Conditions of Confinement	<input type="checkbox"/> 865 RSI (405 (g))
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	FORFEITURE/PENALTY	FEDERAL TAX SUITS
<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 350 Motor Vehicle	CIVIL RIGHTS	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 891 Agricultural Acts	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
<input type="checkbox"/> 893 Environmental Matters	REAL PROPERTY	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 441 Voting	LABOR	
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 710 Fair Labor Standards Act	
<input type="checkbox"/> 896 Arbitration	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 720 Labor/Mgmt. Relations	
<input type="checkbox"/> 899 Admin. Procedures Act/Review of Appeal of Agency Decision	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 445 American with Disabilities-Employment	<input type="checkbox"/> 740 Railway Labor Act	
<input type="checkbox"/> 950 Constitutionality of State Statutes		<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 446 American with Disabilities-Other	<input type="checkbox"/> 751 Family and Medical Leave Act	
			<input type="checkbox"/> 448 Education	<input type="checkbox"/> 790 Other Labor Litigation	
				<input type="checkbox"/> 791 Employee Ret. Inc. Security Act	

FOR OFFICE USE ONLY:

Case Number:

SA CV13-01631 JVS(RNBx)

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
#13
CIVIL COVER SHEET

VIII. VENUE: Your answers to the questions below will determine the division of the Court to which this case will most likely be initially assigned. This initial assignment is subject to change, in accordance with the Court's General Orders, upon review by the Court of your Complaint or Notice of Removal.

Question A: Was this case removed from state court? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "no," go to Question B. If "yes," check the box to the right that applies, enter the corresponding division in response to Question D, below, and skip to Section IX.	STATE CASE WAS PENDING IN THE COUNTY OF:		INITIAL DIVISION IN CACD IS:
	<input type="checkbox"/> Los Angeles		Western
	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo		Western
	<input type="checkbox"/> Orange		Southern
	<input type="checkbox"/> Riverside or San Bernardino		Eastern

Question B: Is the United States, or one of its agencies or employees, a party to this action? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "no," go to Question C. If "yes," check the box to the right that applies, enter the corresponding division in response to Question D, below, and skip to Section IX.	If the United States, or one of its agencies or employees, is a party, is it:		INITIAL DIVISION IN CACD IS:
	A PLAINTIFF?	A DEFENDANT?	
	Then check the box below for the county in which the majority of DEFENDANTS reside.	Then check the box below for the county in which the majority of PLAINTIFFS reside.	
	<input type="checkbox"/> Los Angeles	<input type="checkbox"/> Los Angeles	Western
	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo	Western
	<input type="checkbox"/> Orange	<input type="checkbox"/> Orange	Southern
	<input type="checkbox"/> Riverside or San Bernardino	<input type="checkbox"/> Riverside or San Bernardino	Eastern
<input type="checkbox"/> Other	<input type="checkbox"/> Other	Western	

Question C: Location of plaintiffs, defendants, and claims?	A. Los Angeles County	B. Ventura, Santa Barbara, or San Luis Obispo Counties	C. Orange County	D. Riverside or San Bernardino Counties	E. Outside the Central District of California	F. Other
Indicate the location in which a majority of plaintiffs reside:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Indicate the location in which a majority of defendants reside:	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Indicate the location in which a majority of claims arose:	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

C.1. Is either of the following true? If so, check the one that applies: <input checked="" type="checkbox"/> 2 or more answers in Column C <input type="checkbox"/> only 1 answer in Column C and no answers in Column D Your case will initially be assigned to the SOUTHERN DIVISION. Enter "Southern" in response to Question D, below. If none applies, answer question C2 to the right. →	C.2. Is either of the following true? If so, check the one that applies: <input type="checkbox"/> 2 or more answers in Column D <input type="checkbox"/> only 1 answer in Column D and no answers in Column C Your case will initially be assigned to the EASTERN DIVISION. Enter "Eastern" in response to Question D, below. If none applies, go to the box below. ↓
Your case will initially be assigned to the WESTERN DIVISION. Enter "Western" in response to Question D below.	

Question D: Initial Division?	INITIAL DIVISION IN CACD
Enter the initial division determined by Question A, B, or C above: →	SOUTHERN DIVISION

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
#14
CIVIL COVER SHEET

IX(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ NO ☐ YES

If yes, list case number(s): _____

IX(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☐ NO ☒ YES

If yes, list case number(s): 8:12-cv-00222-CJC-JPR

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☒ A. Arise from the same or closely related transactions, happenings, or events; or
☒ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

X. SIGNATURE OF ATTORNEY

(OR SELF-REPRESENTED LITIGANT): Ronald Spawberg

DATE: 10/17/2013

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet).

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405 (g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))